Supreme Court, U.S.
FILED

98 1439 MAR 8 1999

OFFICE OF THE CLERK

Docket No. _____

In The

Supreme Court of the United States

October Term 1998

Mary Vice Evans,

Petitioner,

v.

Craig Joseph Moore, Excel Protection Systems, Inc. and Trinity Universal Insurance Company

---

On Petition For Writ Of Certiorari

To The Supreme Court of the State of Louisiana, State of Louisiana Court of Appeal, Third Circuit, and the State of Louisiana, 15th Judicial District Court

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PETITION FOR WRIT OF CERTIORARI

Mary Vice Evans
914 Wildcat Drive
Abbeville, LA 70510
(318) 893-2949

35 pp

QUESTION PRESENTED FOR REVIEW

The issue presented is whether a State of Louisiana district court violated petitioner's right of privacy and association guaranteed by the United States Constitution by forcing her to divulge her Social Security number and the Social Security number of her deceased son in the course of civil litigation, when the defendant requesting such information has made absolutely no showing of relevance to the litigation at hand.

PARTIES TO PROCEEDING IN SUPREME COURT OF THE STATE OF LOUISIANA

1. Mary Vice Evans, Dabne Colette Evans and Damon Russ Evans
2. Louis Robert Lee Duhon
3. Tammy Duhon
4. National General Insurance Company
5. Trinity Universal Insurance Company
6. Craig Joseph Moore
7. Excel Protection Systems, Inc.
6. Allstate Insurance Company

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1. U.S. Constitution - Amendment XIV

2. La. Const. Art. 1 Sec. 1

3. Mr. Marc Rotenberg, Director, Computer Professionals for Social Responsibility, Chairman, Association for Computing Machinery Committee on Scientific Freedom and Human Rights testimony before U.S. Senate, Subcommittee on Social Security and Family Policy, Committee on Finance, February 28, 1992.

4. *Boyd v. United States,* 116 U.S. 616, 6 S.Ct. 524, 29 L.Ed. 746 (1886)

5. *Entick v. Carrington,* 19 How. St. Tr. 1029

6. *Griswold v. State of Connecticut*, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965)

7. *Katz v. United,* 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed. 576 (1967)

8. *I.B.E.W. Local U. No. 5 v. U.S. Dept. of HUD,* 852 F.2d 87 (3rd Cir. 1988)

9. *Olmstead v. United States,* 277 U.S. 438, 48 S.Ct. 564, 712 L.Ed. 944 (1928)

10. *Roe* v. *Wade,* 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973)

OPINIONS BELOW

The Supreme Court of the State of Louisiana did not issue an opinion other than stating that petitioner's application for Supervisory and/or Remedial writs were "Denied." (Appendix A)

The Court of Appeal, Third Circuit, State of Louisiana did not issue an opinion other than stating in response to petitioner's application for Supervisory and/or Remedial writs "WRIT DENIED, We find no error in the trial court's ruling." (Appendix B). This Court also issued a stay order (Appendix C) and then lifted same . (Appendix B).

The 15th Judicial District Court, Parish of Acadian, State of Louisiana did not render an opinion other than what is contained in the transcript of the hearing of September 29, 1998 and a denial of the stay order (Appendix D). However the district court did issue a written order after the Supreme Court of the State of Louisiana issued its decision. (Appendix E)

JURISDICTIONAL STATEMENT

Jurisdiction of this court is invoked pursuant to 28 U.S.C. 1257 to review the decision of the Supreme Court of the State of Louisiana rendered on December 9, 1998 denying petitioner's application for supervisory and/or remedial writs, the decision of the Court of Appeal, Third Circuit, State of Louisiana denying petitioner's application for supervisory and/or remedial writs rendered on October 30, 1998 and the decision of the 15th Judicial District Court, Parish of Acadia, State of Louisiana compelling petitioner to reveal the her social security number and the social security number of her deceased son rendered orally in open court on September 29, 1998.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution Articles

U.S. Constitution - Amendment XIV

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall nay state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Louisiana Constitution Articles

La. Const. Art. 1 Sec. 1

" Section 1. All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. It's only legitimate ends is to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state."

STATEMENT OF THE CASE

This litigation involves the delictual action filed by petitioner, Mary Vice Evans, seeking damages for the wrongful death of her son, Darvin James Duhon, who died shortly after, and as a result of, the automobile accident involved in this litigation. His mother, petitioner herein, filed a claim for damages suffered by her for the loss of her son, his love and affection and a survival action for that period of time between the time of the accident and the death of her son for his physical and mental pain and suffering.

In connection with this action, defendants/respondents, Craig Joseph Moore, Excel Protection Systems, Inc. and Trinity Universal Insurance Company served interrogatories upon Mrs. Evans. Amid these interrogatories, the defendants sought the Social Security number of petitioner and the Social Security number of petitioner's deceased son. Petitioner refused to reveal the social security numbers stating in her response to the request: "Objection. This calls for information which is confidential and not subject to discovery." On August 28, 1998 the defendant filed a Motion to Compel seeking an Order from the Louisiana district court compelling petitioner to reveal the Social Security numbers mentioned. On September 29, 1998, a hearing in the district court

was held on Defendants' Motion to Compel. The issue of privacy was raised by petitioner. Witness the exchange in the trial court:

> BY MR. DAUZAT: [1]
>
> Yes, sir, I am familiar with the Court's standing order. Your Honor, that concludes our problem with Mr. Barber, other than the social security numbers. And, of course, we feel that any privileges have been waived by virtue of the filing of the lawsuit.
>
> BY THE COURT:
>
> Mr. Barber, you're welcome to argue. This is an issue in the Third Circuit with me right now, and I'm going to be consistent, and it's not in your favor. But I may lose at Third Circuit, but is was argued by Simon, one of the Simon brothers, the younger.
>
> BY MR. BARBER:
>
> Quentin.
>
> BY THE COURT:
>
> Who argued it in front of me and lost. And I said that the social security number is relevant information that the defendants are entitled to. Once you file a suit you waive that privilege to provide that, just like you waive the privilege to provide medical information, previous medical information and some others. So I'm going to require that you, you know, provide them with the social security number. I think that, on that requirement, from what I recall, what I told him when he argued before me was that I would require the defendants, should they use that number to obtain any information, they first notify the

[1] Jimmy L. Dauzat, Esq., Counsel for the defendants Craig Joseph Moore, Excel Protection Systems, Inc. and Trinity Universal Insurance Company

plaintiff of where they plan to use that and if they get any information as a result of using it, it should be forwarded to you at the same time as forwarded to them.

So if Mr. Dauzat gets the social security number and wants to use it at the crime lab, he needs to inform you that he intends to do that, then when he receives the information that he supply you with that information at the same time.

(To Mr. Dauzat): If you're going to get the social security number and your plan to run it through one of those banks or one of those whatever it is, you need to notify the plaintiff that you intend to do that, how you intend to use it, and if you get anything as a result of using it, then you need to supply that to the plaintiff.

. . .

BY MR. BARBER:

But I do want to respond to the social security number, Your Honor. It does open up a person's information bank, like you were speaking of. It gives another person a lot more access to the information that's probably not going to be relevant to this case; credit information, financial information. They have internet sites that are starting to use social security numbers, which I think is tragic. I was always taught that you don't reveal your social security number if you don't have to because it's something private. And I understand your ruling, but I do disagree, respectfully."

Transcript of the hearing held on Tuesday September 29, 1998 pp. 25 - 27

At no time in its Motion to Compel nor at the hearing on the motion to compel have the defendants shown any good cause for petitioner to reveal the Social Security numbers.

REASONS RELIED ON FOR ALLOWANCE OF THE WRIT

This court has the opportunity to remedy a significant unresolved issue of law and the opportunity to protect the Constitutionally guaranteed privacy rights of petitioner and all persons who happen to be in a position similar to that of the petitioner. For a court to require petitioner to reveal the social security numbers would expose her to untold abuses resulting from unfettered use of that number.

To understand the significance of this issue is to understand the grotesque invasion of plaintiff's constitutional right of privacy and association, which the order of the district court will bring about, if plaintiff is compelled to disclose the social security numbers mentioned in her Petition. Mr. Marc Rotenberg, Director of the Washington Office of Computer Professionals for Social Responsibility, testified before the Subcommittee on Social Security and Family Policy, Committee on Finance, in the United States Senate. He reported the following:

> Two months ago, The Washington Post reported that 16 individuals in 10 states were arrested in the largest case ever involving the theft of federal computer data. So-

called information brokers boasted that they could provide detailed personal information on anyone in the country. The records ranged from private credit reports and business histories to driver's license records, Social Security records and even criminal history backgrounds.

Further he testified that:

> These confidential records were taken from government agencies and then sold for a fee to lawyers, insurance companies, private employers and others.

He further disclosed that a computer security expert had affirmatively stated that:

> The public is abysmally uninformed about problems like this. With significant access to a few databases these days, you can get pretty close to somebody's life history with nothing, more than a Social Security Number. [emphasis added]

Rotenberg further stated:

> The central privacy problem with the use of a Social Security Number as an identifier is that it allows organizations to compile information about individuals without their knowledge or consent. This tends to diminish an individual's ability to control information about himself or herself and leads to the compilation of elaborate dossiers,
>
> Mr. Marc Rotenberg, Director, Computer Professionals for Social Responsibility, Chairman, Association for Computing Machinery Committee on Scientific Freedom and Human Rights testimony before U.S. Senate, Subcommittee on Social Security and Family Policy, Committee on Finance, February 28, 1992.

Without a showing of good cause or even of relevancy in fact

without a showing of anything other than the interrogatories propounded by defendant to Mrs. Evans, the district court has compelled Mrs. Evans to give, to her adversary, her social security number and her deceased son's Social Security numbers, which will permit strangers of all stripes to freely roam about in the pristine halls of her private life and the private life of her deceased son.

The unconditional command of the district court compelling Mrs. Evans to make disclosure of the Social Security numbers mentioned is a mandate to give *to the world* these Social Security numbers in order to enable anybody the opportunity to learn of the life history of Mrs. Evans and the life history of her deceased son, who cannot rise from the grave to defend himself. In so doing, the respondent court has exceeded its jurisdiction, in that such an unconditional mandate constitutes an egregious invasion of petitioner's constitutional right of privacy and of association. The respondent court's order is directed at Mrs. Evans solely because of her association with her deceased son as his mother. At the very least, as to her son, the respondent court's order, to the extent that the effects of it is to make a full disclosure of her son's life history, amounts to a desecration of the dead.

In addition to the invasion of privacy which the disclosure of one's Social Security number entails, the threats to the security of the person and her financial and personal privacy, necessary information which can flow from such a disclosure are very real. As society becomes increasingly, automated, and as vast amounts of information pertaining to the financial and personal aspects of one's life are stored in computerized databases, one's Social Security number has emerged as one of the essential keys to the lock on our private information. As shown above, financial records, personal medical information, business histories, driving records, and other data are easily accessible with no more than a Social Security number. The same computer technology that makes all of this information accessible at the touch of a button, also transforms the disclosure of Mrs. Evans' Social Security number to one person into a disclosure to all people, at the touch of a button. Thus, this is not just a question of whether the defendant is entitled to Mrs. Evans' Social Security number, it is a question of whether many uncountable others are to be allowed access to Mrs. Evans' Social Security number. That is the concrete reality of this case.

The use, and danger inherent in disclosure of social

security numbers was characterized by the court in *I.B.E.W. Local U. No. 5 v. U.S. Dept. of HUD,* 852 F.2d 87 (3rd Cir. 1988). That case involved an application by the plaintiff union under the Freedom of Information Act to obtain background information of certain employees and the social security numbers of these employees. Because the request was made under the Freedom of Information Act, there was a presumption that the information should be disclosed. Thus, the district court ordered the release of the social security numbers. On appeal, however, the Appellate Court reversed. In speaking about the dangers inherent in ordering the release of the employees social security numbers, the court held that:

> The employees have a strong privacy interest in their Social Security numbers. Congress has recognized this privacy interest by making unlawful any denial of a right, benefit, or privilege by a government agency because of an individual's refusal to disclose his Social Security number. Privacy Act of 1974, Pub. L. 93579, § 7, 88 Stat. 1896, 1909 (1974), *reprinted* 5 U.S.C. § 552a note (1982). Moreover, in its report supporting the adoption of this provisions, the **Senate Committee stated that the extensive use of Social Security numbers as universal identifiers in both the public and private sectors is "one of the most serious manifestations of privacy concerns in the Nation."** S.Rep. No. 1183, 93d Cong., 2d Sess., *reprinted* in 1974 U.S. Code Cong. & Admin. News 6916, 6943.

> The Union argues that, unlike a government agency, it would not be able to make use of the Social Security numbers to invade the privacy of the employees because it does not have access to government records. Although the union is certainly less than a government agency to be able to use the numbers to gain further information on the employees, it is not inconceivable that the Union could misuse the information. Moreover, once a number is public knowledge, it could wind up in anybody's hands.

Id, at 89 (emphasis added).

The *H.U.D.* case, and the Court's holding, encapsulate the issue in the present case. When a court compels a party to disclose her Social Security number to another party, it is not just the disclosure to that party which the court must consider. Rather, it is the very real possibility that the Social Security numbers of Mrs. Evans and her deceased son will wind up in the hands of a third party, a party who may then release the information to any number of individuals, who have no limits or restrictions on how they might use the numbers. Indeed, this is exactly what will happen in this case. In order to use Mrs. Evans' Social Security number, the defendant will have to disclose the number to a third party, and once that third party has access to Mrs. Evans' Social Security number, the possibilities for abuse are endless.

Thus, this issue presents this Court with the opportunity to establish a judicial policy which will serve to protect citizens from

abuse of their Social Security numbers, not only by opposing litigants, but by the untold others to which this number is no more than a key to miles of sensitive data, to be bought and sold as a simple commodity. Thus, the issue at stake in this case is not merely the privacy of the individual, but the complete forfeiture of personal security which can easily be brought about by that invasion of privacy, and without any showing of good cause. Once a person's Social Security number is disclosed, it becomes no more than a tool to whomever it is disclosed. As such, this case is about far more than the possibility of an opposing litigant using Mrs. Evans' Social Security number to retrieve personal data. It is very much about protecting Mrs. Evans from the abuses perpetrated by those numerous others to whom the defendants will disclose the number. Once the genie is out of the bottle, it is impossible to reign it back in again, and Mrs. Evans, who only wants redress for the death of her son, must pay the price.

It is often said that the law cannot keep up with the growing pace of technology. In reviewing the decision of the district court, this Court has a perfect opportunity to see that proper safeguards, are applied to protect persons privacy guaranteed by the Constitution. This is the only way to ensure that the privacy

and security of all citizens are protected. By reversing the district court's order, this Court will be establishing, once and for all, that the showing of good cause and relevance is required by our laws so as to protect innocent citizens against the growing dangers brought about by rapidly advancing technologies.

The following judicial caveat is as timely and pertinent today as it was in 1886, reported in *Boyd v. United States,* 116 U.S. 616, 625, 6 S. Ct. 524, 535:

> "It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely: by silent approaches and slight deviations from legal modes of procedure... It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroaches thereon."

To understand the significance of that caveat is to understand the grotesque invasion of plaintiff s constitutional right of privacy and association, which the order of the respondent court will bring about, if plaintiff is compelled to disclose the social security numbers mentioned in her Petition.

In this case, the district court, in the hearing on the defendant's Motion to Compel, stated that:

> ... the social security number is relevant information that the defendants are entitled to. Once you file a

> suit you waive that privilege to provide medical information, previous medical information and some others...

(Transcript of the September 29, 1998 hearing, p. 25)

This, however, is not the law. A litigant does not shed all of her rights simply because she files a suit for redress of grievances. If this were the case, no person would file a suit for fear of the abuses to which she would be subject. Because of this, our courts have been mindful of the fact that a litigant does not shed his/her constitutional protective armor when he/she enters a court room. A litigant in civil litigation should not be required to give up private information without a reason.

Thus, the district court's order compelling discovery of the social security numbers is overkill, and is totally unsupported in the record. Indeed, on what grounds could the respondent court conceive would justify the order compelling plaintiff to deliver to defendants these social security numbers? What more do defendants **need** to know other than how the accident happened, which is supplied by the police investigative report, and what injuries her son sustained, which is disclosed by the medical records. And what more information these defendants may need as to the mother's claim for the mental anguish and suffering which

she endured as a result of the death of her son. No reasonable person can assign any convincing reason to support the grant of an order, as did the respondent court, based on no evidence, no claim and no good cause shown. If the defendants simply wanted to know Mrs. Evans' income, there are numerous, less intrusive ways, of obtaining that information. The district court, however, simply held that when a person files a suit for redress of damages, she completely abandons all of her constitutional rights in order to pursue that claim.

The order of the respondent court, therefore, completely lacking any proof as to its necessity, exists as a governmental intrusion into plaintiff's privacy rights. Any governmental intrusion, whether on the part of the executive, legislative or judicial branch of government, is subject to the proscription of the constitution. A brief sojourn into the evolution and nature of the right of privacy in controversy is helpful to understand the egregious nature of the order of the court commanding an intrusion into the plaintiff's right of privacy.

Even though the Third Amendment prohibits quartering of soldiers in houses without consent, and the Fourth Amendment protects persons against unreasonable search and seizure, the Bill

of Rights makes no mention of privacy. While at first glance, the omission of the right of privacy surprises, on deeper inspection, however, it becomes superfluous. And for good reason. It was self-evident to the founding fathers then, as it is now, that the concept of freedom, as exemplified by the several Amendments to the Constitution, when accompanied by official intrusion, is tyranny, not freedom. One excludes the other. For that fundamental reason, the right of privacy resides at the very core of the constitutional freedom of each American citizen. Big Brother's intrusion into the exercise of the citizen's freedom is anathema to that citizen's freedom. Thus, the right of privacy is the legal insulation needed to make the citizen's exercise of his constitutional freedom impervious to official interference. It guarantees to the citizen that zone of privacy needful for the citizen's free exercise of his substantive rights as a free citizen and stays the hand of government from repressing, modifying, or chilling those rights. Indeed, it is these rights which governments are instituted to protect, and under this constitutional rubric of privacy the jurisprudence as established by the federal judiciary demonstrate that government must protect, not impair or destroy, the individual's right of intimate decisions among members of his

family and the citizen's right of association.

The first notable stirring in legal circles of the right of privacy, as we now know it, occurred in 1890, in an article entitled "The Right of Privacy," published in the Harvard Law Review by Samuel Warren and Louis Brandeis, then a Boston lawyer. The article was inspired by Warren's annoyance at press coverage of the lavish entertainment he conducted in his home in Boston's elite Black Bay. In part pertinent, the article said:

> The press is overstepping in every direction the obvious bound of propriety and of decency. Gossip is no longer the resource of the idle and of the vicious, but has become a trade, which is pursued with industry as well as effrontery. To satisfy a prurient taste the details of sexual relations are spread broadcast in the columns of the daily papers. To occupy the indolent column upon column is filled with idle gossip, which can only be procured by intrusion upon the domestic circle.

The authors further complained that such indiscretion brought "a lowering of social standards and of morality" and infringed the "right of the individual to be let alone." This article was adumbrative of an unprecedented expansion of the concept of the privacy rights of citizens.

It is apparent that Mr. Warren and Brandeis were inspired by the earlier decision of the Supreme Court in *Boyd v. United States,* 116 U.S. 616, 6 S.Ct. 524, 29 L.Ed. 746 (1886) to make a

statement extending the extant reach of personal liberty. They obviously took serious note of Lord Camden's opinion in the 1765 case of *Entick v. Carrington,* 19 How. St. Tr. 1029, stating:

> The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the government and its employees of the sanctity of a man's home and the privacies of his life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of his offense; but it is the invasion of his indefeasible right of personal security, personal liberty and private property, where that right has never been forfeited by his conviction of some public offense, -it is the invasion of his sacred right which underlies and constitutes the essence of Lord Camden's judgment.

Id. at U.S. 630, S.Ct. 532.

Thus, as far back as 1886, the Supreme Court held that the liberty guaranteed by the constitution guarded more than a man's home from government intrusion, it guarded "the privacies of his life." While *Boyd* was decided within the factual context of an illegal government seizure, the Court based its opinion, not merely on the narrow right to be free from unlawful seizure, but upon the right of all citizens to be free and secure in the "privacies" of their lives. It was the government's "invasion of [the] indefeasible right of personal security" which led the Court to invalidate the seizure.

When in 1927, the Supreme Court refused to count wiretapping as a search and seizure limited by the Fourth Amendment, Justice Brandeis wrote his memorable dissent, extending his earlier privacy concerns to a constitutional setting. *Olmstead v. United States,* 277 U.S. 438, 48 S.Ct. 564, 712 L.Ed. 944 (1928). In his dissent, Justice Brandeis argued that the unreasonable search and seizure provision of the Fourth Amendment "conferred, as against the government, the right to be let alone" and "to protect that right, every unjustifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment." Id. at U.S. 478, S.Ct. 572. His inchoate notion of the right of privacy, as he stated it, was not vindicated until 1967, when, in *Katz v. United,* 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed. 576 (1967), the Supreme Court ruled that unauthorized wiretaps violate the Fourth Amendment.

In *Roe* v. *Wade,* 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973), this Court gave the Constitutional right of privacy its most controversial application, striking down a Texas law against abortion, the Court saying: "This right of privacy...founded in the Fourteenth Amendment's concept of personal liberty and

restrictions upon state action ... is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." Id. at U.S. 153, S.Ct. 727 (emphasis added).

This right of privacy has undergone unprecedented judicial expansion to now include as prohibited the governmental invasion of plaintiff's privacy rights as exemplified by the order of the respondent court. Thus, this Court has established that a right of privacy exists that insulates certain individual privacy from governmental interference. This right is not derived from any single article or amendment to the Constitution. Rather, it is found in that "penumbra" [Griswold v. State of Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965)] of rights which the Constitution affords, and protects the individual's autonomy in making these important decisions. The government may not interfere with the making of such decisions because the freedom to make those decisions free from government interference is part of the "liberty" which government was instituted to protect. Without the right to privacy, many other rights guaranteed by the Constitution would be meaningless.

When the order of the respondent court is silhouetted against this body of constitutional jurisprudence, it is at once

obvious that the respondent court has overreached its constitutional authority; that the order of the respondent court deprives plaintiff of her constitutional right of privacy to the extent that it proscribes any intrusion into her privacy generated by the disclosure of the social security numbers mentioned. Moreover, her familial right of association with her son has likewise been invaded by the order of the respondent court. It is only because she is the mother of her deceased son that the order was issued for the production of the social security number of her deceased son. As earlier stated, such a judicial reach is destined to result in a desecration of her son who is no longer able to defend himself. It is respectfully submitted that this court should grant review of this very important question of constitutional law and on review the order of the respondent court directing the production of the social security number of plaintiff and her deceased son, should be reversed.

APPENDIX "A"

The Supreme Court of the State of Louisiana

MARY VICE EVANS, ET AL

VS. NO. 98-CC-2930

CRAIG MOORE, ET AL

IN RE: Evans, Mary vice; - Plaintiff(s); Applying for Supervisory and/or Remedial Writs; to the Court of Appeal, Third Circuit, Number CW 98-1576; Parish of Acadia 15th Judicial District Court Div. "I" Number 71,802, 71,326, 71,799

December 9, 1998

Denied.

CDT
PFC
HTL
CDK
BJJ
JPV
JTK

MARCUS, J. not on panel

Supreme Court of Louisiana
December 9, 1998
/s/ Clerk of Court

Clerk of Court
For the Court

APPENDIX "B"

NUMBER 98-1576

COURT OF APPEAL, THIRD CIRCUIT

STATE OF LOUISIANA

MARY VICE EVANS, ET. AL.

VERSUS

CRAIG JOSEPH MOORE, ET. AL.

October 30, 1998
Lake Charles, La.

STAY RECALLED

WRIT DENIED. We find no error in the trial court's ruling.

/s/ U.G.T.	/s/ J.C.P.	/s/ E.A.P.
U.G.T.	J.C.P.	E.A.P.

APPENDIX "C"

NUMBER 98-1576

COURT OF APPEAL, THIRD CIRCUIT

STATE OF LOUISIANA

MARY VICE EVANS, ET. AL.

VERSUS

CRAIG JOSEPH MOORE, ET. AL.

On supervisory writs from the Fifteenth Judicial District Court, in and for the Parish of Acadia, State of Louisiana, The Honorable Thomas Duplantier, Judge, presiding.

October 16, 1998
Lake Charles, La.

STAY GRANTED

The portion of the trial court's ruling compelling production of the social security numbers is hereby stayed pending review by this court.

/s/ U.G.T.	/s/ J.C.P.	/s/ E.A.P.
U.G.T.	J.C.P.	E.A.P.

APPENDIX "D"

LOUIS ROBERT LEE DUHON
VERSUS DOCKET NUMBER 71,236
CRAIG JOSEPH MOORE, ET. AL.

CONSOLIDATED WITH

TAMMY DUHON, ET. AL.
VERSUS DOCKET NUMBER 71,799
SUCCESSION OF DARVIN DUHON, ET. AL.

CONSOLIDATED WITH

MARY VICE EVANS, DAMON RUSS EVANS and DABNE COLETTA EVANS

VERSUS DOCKET NUMBER 71,802

CRAIG JOSEPH MOORE, ET. AL.

NOTICE TO APPLY FOR REMEDIAL WRITS

TO:

Honorable J. Andrus Barousse
Clerk of Court, Acadia Parish
Courthouse, Parkerson Avenue
Crowley, Louisiana 70527-0922

Mr. Rusty Galloway
GALLOWAY & JEFCOAT
1919-A Dulles Drive
Lafayette, Louisiana 70596

Mr. Clint D. Bischoff
Robert K. Guillory and Associates
128 Demanade Boulevard, Suite 300
Lafayette, Louisiana 70505-3478

Ms. Simone C. Dupre
VOORHIES & LABBE
700 St. John Street
Lafayette, Louisiana 70502-3527

Mr. Jimmy L. Dauzat
DAUZAT, FALGOUST CAVINESS & BIENVENUE
510 South Court Street
Opelousas, Louisiana 70571-1450

Mr. John W. Penny, Jr.
PENNY & HARDY
100 East Vermilion Street, Suite 203
Lafayette, Louisiana 70502

Plaintiff, Mary Vice Evans, appearing through undersigned counsel hereby gives notice of her intention to apply for remedial writs to the Court of Appeal, Third Circuit, regarding the ruling of the court of September 29, 1998, whereby th court issued an order compelling plaintiff to disclose her Social Security number and the Social Security number of plaintiff's deceased son, and the further order of the court rendered on the same date and time whereby the court denied to plaintiff, the right to make discovery of documents in the possession of State of Louisiana, Department of Public Safety and Corrections, Louisiana State Police.

Plaintiff further moves the court to stay these orders of the court until plaintiff's writ application shall have been finally adjudicated.

Lafayette, Louisiana, this /s/ 7th day of October, 1998.

Respectfully submitted:

J. MINOS SIMON, LTD.
FRANK E. BARBER
1408 West Pinhook Road
Post Office Box 52116
Lafayette, Louisiana 70505-2116
Telephone: (318) 233-4625

BY: /s/ Frank E. Barber
FRANK E. BARBER (22933)
Attorney for Plaintiff, Mary Vice Evans

ORDER

Considering the plaintiff's notice of her intention to apply for remedial writs aforesaid, it is ordered that said writ shall be filed wit5h the Court of Appeal, Third Circuit on or before the /s/ 17 day of October, 1998.

IT IS FURTHER ORDERED, that the rulings complanied

of as to the disclosure of Social Security numbers are stayed until plaintiff's writ application shall have been finally adjudicated.

Lafayette, Louisiana, this /s/ 7 day of October, 1998.

[STAY NOT GRANTED: "DENIED" WRITTEN THROUGH ORDER]

/s/ Thomas Duplantier
DISTRICT JUDGE

CERTIFICATE

I HEREBY CERTIFY that the foregoing has been served upon all counsel of record by placing a copy thereof in the United States Mail, postage prepaid and properly addressed.

Lafayette, Louisiana, this /s/ 7th day of October, 1998.

/s/ Frank E. Barber
FRANK E. BARBER

APPENDIX "E"

LOUIS ROBERT LEE DUHON NO. 71,236, CIVIL DOCKET

VERSUS 15TH JUDICIAL DISTRICT COURT

CRAIG JOSEPH MOORE, ET. AL. ACADIA PARISH, LOUISIANA

* *

TAMMY DUHON, ET. AL. NO. 71,236, CIVIL DOCKET

VERSUS 15TH JUDICIAL DISTRICT COURT

SUCCESSION OF DARVIN DUHON,
ET. AL. ACADIA PARISH, LOUISIANA

* *

MARY VICE EVANS, DAMON RUSS EVANS AND DABNE COLETTE EVANS NO. 71,236, CIVIL DOCKET

VERSUS 15TH JUDICIAL DISTRICT COURT

CRAIG JOSEPH MOORE, TRINITY UNIVERSAL INSURANCE COMPANY, INC., EXCEL PROTECTION SYSTEMS, INC., ALLSTATE INSURANCE COMPANY AND NATIONAL GENERAL INSURANCE COMPANY ACADIA PARISH, LOUISIANA

(DULY CONSOLIDATED)

* *

JUDGMENT ON RULE

THIS MATTER came on for hearing on September 29, 1998, on a rule to show cause filed by TRINITY UNIVERSAL INSURANCE COMPANY, INC., there being present for the plaintiff in rule its attorney, Jimmy L. Dauzat, Esq., the defendant in rule, MARY VICE EVANS, being represented by her attorney, Frank E. Barber, Esq., and the Court, considering the law and the evidence and for reasons that date orally assigned:

IT IS ORDERED, ADJUDGED AND DECREED that the rule issued herein be, and the same hereby is made absolute and that the defendant in rule, MARY VICE EVANS, be, and she hereby is, required to provide to the plaintiff in rule TRINITY

UNIVERSAL INSURANCE COMPANY, INC. through its counsel of record, Jimmy L. Dauzat, Esq., her Social Security number and the Social Security number of the decedent, Darvin Duhon;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff in rule, TRINITY UNIVERSAL INSURANCE COMPANY, INC., be, and it hereby is required to notify MARY VICE EVANS through her counsel of record as to where it plans to use said Social Security numbers before any such use is made and to provide to MARY VICE EVANS through her counsel of record a copy of any information received as a result of the use of said Social Security numbers;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other matters contained in the motion to compel filed by TRINITY UNIVERSAL INSURANCE COMPANY, INC., are rendered moot by virtue of stipulations concerning same reached by counsel at the hearing of the rule.

JUDGMENT RENDERED on September 29, 1998, and READ AND SIGNED at Crowley, Louisiana, in the /s/ 8 day of January, 1999.

/s/ Thomas Duplantier
Judge

Respectfully Submitted by:

Mary Vice Evans

Mary Vice Evans
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